IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 1960 of 2006(G)

PETITIONERS:

1.HYDROSE.V.T., PRESIDENT POURA SAMITHY,
NATTIKA GRAMA PANCHAYAT, RESIDING AT
CHANDANAPARAMBIL HOUSE, CHEKKARA, THALIKKULAM,
THRISSUR DISTRICT.

*ADDL.P2.T.VENUGOPALAN, AGED 52 YEARS,
S/O.UNNIRI, PRESIDENT, POURA SAMITHY,
NATTIKA GRAMA PANCHAYAT, RESIDING AT
THAZHATHUPURA HOUSE, CHERKARA P.O.,
TALIKULAM, THRISSUR DISTRICT.

*ADDL.P2 IS IMPLEADED AS PER THE ORDER IN I.A.NO.14479/06
DATED 5.2.07.

BY ADV. SRI.M.B.PRAJITH

RESPONDENTS:

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1. THE SECRETARY, NATTIKA GRAMA PANCHAYAT,
NATTIKA P.O., VALAPPAD.

2. THE DISTRICT COLLECTOR, THRISSUR.

3. THE SURVEY SUPERINTENDENT, THRISSUR.

4. THE DEPUTY DIRECTOR OF PANCHAYAT,
THRISSUR.

R1 BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.PETER JOSE CHRISTO
R2 TO R4 BY GOVT. PLEADER MR.K.J.MOHAMMED ANSAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C)No.1960 of 2006

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Dated: 6th March, 2007

JUDGMENT

The grievance of the petitioner is that Ext.P7 resolution adopted by the Panchayat deciding to evict the encroachers is not being implemented by the Panchayat.

2. The 1st respondent-Panchayat has filed a counter affidavit in the impleadment application while the 4th respondent has filed a counter affidavit.

3. Heard both sides. It is seen from the counter affidavit filed by the 4th respondent that some of the persons who are in occupation of the encroached area have filed suits before the Munsiff's Court, Chavakkad and that in an Adalat conducted by the Munsiff's Court a few of the suits have been settled while few of them are pending. But in none of the suits, no injunction order as such has been issued against the Panchayat and in favour of the plaintiffs in the suits. Ext.P13 order of the Ombudsman will show that the Ombudsman relied on the finding of the Deputy Director of Panchayat that the area occupied has been trespassed upon and issued a direction that the Panchayat has to take steps for recovering the encroached area. The decision which has been taken by the Panchayat in Ext.P7 is to evict the encroachers. Under these circumstances, the Writ Petition

will stand disposed of with the following directions:

The 1st respondent will take immediate steps for implementing Ext.P7 after issuing notice to the encroachers, if no injunction orders have been issued by any competent court restraining the Panchayat from implementing Ext.P7 and the directions in Ext.P13. The Panchayat shall implement Ext.P7 and the directions in Ext.P13 within 30 days of receiving a copy of this judgment. It is made clear that hearing notice is directed to be given to the encroachers only with the objective of providing breathing time to them for vacating the premises and this will not be misunderstood as reflection on any rights which they may be claim over the property.

srd **PIUS C.KURIAKOSE, JUDGE**